

Page



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/670,736	09/27/2000	William J. Rooney	POU920000103US1	7694
24033	7590	06/14/2004	EXAMINER	
KONRAD RAYNES & VICTOR, LLP			SORRELL, ERON J	
315 S. BEVERLY DRIVE			ART UNIT	
# 210			PAPER NUMBER	
BEVERLY HILLS, CA 90212			2182	

DATE MAILED: 06/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/670,736

Applicant(s)

ROONEY ET AL.

Examiner

Eron J Sorrell

Art Unit

2182

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☒ Newly proposed or amended claim(s) 3,11,19 and 25-27 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 8,16 and 24.

Claim(s) objected to: 3,11,19 and 25-27.

Claim(s) rejected: 1,2,4,5,9,10,12,13,17,18,20 and 21.

Claim(s) withdrawn from consideration: _____.

8. ☒ The drawing correction filed on 27 September 2000 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

JEFFREY GAFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Continuation of 2. NOTE: The applicant argues that Kelley does not teach or disclose the claim requirement of determining a number of components the proposed path shares with the existing paths to the device and using the determined number of shared components to select on proposed path (see lines 3-5 and lines 16-19 of page 13 of applicant's remarks. The Examiner disagrees. At lines 26-31 of column 3, Kelley teaches "a plurality of paths in a network is provided." These paths are the existing paths. Kelley then teaches that a pair of maximally disjoint paths are determined from the existing paths. At lines 52-65 of column 2, Kelley teaches the maximally disjoint paths are selected based on the number of components a path in question shares with other paths in the network. Therefore Kelley teaches the claim requirement.

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